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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,508	03/09/2004	Yuichi Ueda	MM8845US	1950
22203 7590 12/21/2006 KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			EXAMINER GREENHUT, CHARLES N	
			ART UNIT 3652	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/21/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/796,508	Applicant(s) UEDA, YUICHI	
	Examiner Charles N. Greenhut	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

I. Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/23/06 has been entered.

II. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1 and 3-6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claim 1 recites the limitation, "a pair of raising and lowering cables each having one end connected to one of a front side end and a rear side end" in line 9-10. The phraseology "one of" would imply that both cables may be connected to only the front or only the rear. Based on subsequent language in line 16-17, however, "guided from the front side end *and* the rear side end" (emphasis supplied) this is apparently not the case. Examiner suggests, "a pair of raising and lowering cables, wherein one of said pair of cables is connected to a front side end of an upper part of said platform and the other of said pair of cables is connected to a rear side end of an upper part of said platform" or similar language to clarify the limitation.

III. Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1 and 3-6 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over TANAKA (JP 01-092108 A).

1.1. With respect to claim 1, TANAKA discloses a running truck body that runs along a track (Fig. 1), a platform (9), longitudinal pair of raising and lowering poles (8b)/(8d), pair of cables (11)/(12), driving wheel (21), and the ropes guided from the opposite sides of the upper part of the platform to vicinity of a central portion of the running track, together to the vicinity of a central lower portion of the platform (Fig. 2) and a tension setting device (Fig. 3). While TANAKA discloses all the recited elements of the claim, TANAKA fails to disclose the location of the tension setting device as on the platform. It has been held however, that rearranging parts requires no more than ordinary skill in the art.

1.2. With respect to claim 3-6, TANAKA additionally discloses a spring, error detecting unit (Fig. 3), a moving member, setting jig, and detector (Fig. 3), a driving wheel at each end (Fig. 2), and the claimed guide wheel configuration (Fig. 2).

IV. Response to Applicant's Arguments

Applicant's arguments entered 10/23/06 have been fully considered.

1. Applicant argues that TANAKA does not render claim 1 obvious because TANAKA fails to teach cables guided together to a vicinity of a central lower portion of the platform. This

argument is not persuasive. Firstly the cables of TANAKA may be regarded as guided together to a vicinity of a central lower portion of the platform within the broadest reasonable interpretation of that term. Secondly, even if the term "together" required the lower cable configuration shown in applicant's preferred embodiment all that is required to meet such a limitation would be a rearrangement of the parts of TANAKA. It has been held that rearrangement of parts requires no more than ordinary skill in the art. Since Applicant has in no way demonstrated the criticality of such a limitation a rejection under 35 USC 103(a) is appropriate.

2. Applicant argues that TANAKA does not render claim 1 obvious because TANAKA fails to teach the tension setting device mounted on the platform. This argument is not persuasive. All that is required to meet such a limitation would be a rearrangement of the parts of TANAKA. It has been held that rearrangement of parts requires no more than ordinary skill in the art. Since Applicant has in no way demonstrated the criticality of such a limitation a rejection under 35 USC 103(a) is appropriate.
3. Applicant should also note that the Japanese language document cited by applicant H2-18403 appears to show the features relied upon by applicant for patentability in figure 2. Namely, a tension setting device attached to the platform (26) and the cables guided together to a central location on the underside of the platform. This issue should be addressed by Applicant in reply to this office action.

V. Conclusion

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1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG


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